

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: William Moss	Team: Squad #13	CCRB Case #: 201907678	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input checked="" type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 08/13/2019 9:30 PM	Location of Incident: § 87(2)(b) § 87(2)(b)	Precinct: 75	18 Mo. SOL 2/13/2021	EO SOL 9/30/2021	
Date/Time CV Reported Wed, 08/28/2019 1:53 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Wed, 08/28/2019 1:53 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Anthony Waite	09649	961434	075 PCT
2. POM William Schumacher	04618	949640	075 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SSA Robert Martinez	01369	922716	075 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM William Schumacher	Abuse: Police Officer William Schumacher questioned § 87(2)(b)	§ 87(2)(b)
B.POM William Schumacher	Abuse: Police Officer William Schumacher questioned § 87(2)(b)	§ 87(2)(b)
C.POM William Schumacher	Abuse: Police Officer William Schumacher questioned § 87(2)(b)	§ 87(2)(b)
D.POM William Schumacher	Abuse: Police Officer William Schumacher questioned individuals.	§ 87(2)(b)
E.POM Anthony Waite	Abuse: Police Officer Anthony Waite questioned § 87(2)(b)	§ 87(2)(b)
F.POM Anthony Waite	Abuse: Police Officer Anthony Waite stopped § 87(2)(b)	§ 87(2)(b)
G.POM Anthony Waite	Abuse: Police Officer Anthony Waite frisked § 87(2)(b)	§ 87(2)(b)
H.POM William Schumacher	Abuse: Police Officer William Schumacher failed to provide § 87(2)(b) with a business card.	§ 87(2)(b)
I.POM William Schumacher	Abuse: Police Officer William Schumacher failed to provide § 87(2)(b) with a business card.	§ 87(2)(b)
J.POM William Schumacher	Abuse: Police Officer William Schumacher failed to provide § 87(2)(b) with a business card.	§ 87(2)(b)
K.POM William Schumacher	Abuse: Police Officer William Schumacher failed to provide individuals with a business card.	§ 87(2)(b)
L.POM Anthony Waite	Abuse: Police Officer Anthony Waite failed to provide § 87(2)(b) with a business card.	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
M.POM Anthony Waite	Abuse: Police Officer Anthony Waite failed to provide § 87(2)(b) with a business card.	
N.POM Anthony Waite	Abuse: Police Officer Anthony Waite failed to provide § 87(2)(b) with a business card.	
O.POM Anthony Waite	Abuse: Police Officer Anthony Waite failed to provide individuals with a business card.	
P.POM William Schumacher	Abuse: Police Officer William Schumacher interfered with § 87(2)(b)'s use of a recording device.	
Q.POM William Schumacher	Off. Language: Police Officer William Schumacher made remarks to § 87(2)(b) based upon the gender of § 87(2)(b).	
R.POM William Schumacher	Off. Language: Police Officer William Schumacher made remarks to § 87(2)(b) based upon the gender of § 87(2)(b).	
S.POM William Schumacher	Off. Language: Police Officer William Schumacher made remarks to § 87(2)(b) based upon the gender of § 87(2)(b).	
T.POM William Schumacher	Off. Language: Police Officer William Schumacher made remarks to individuals based upon the gender of individuals.	
U.POM William Schumacher	Untruthful Stmt.: Police Officer William Schumacher provided a false official statement to the CCRB.	
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		

Case Summary

On August 28, 2019, § 87(2)(b) filed this complaint in-person at the CCRB on behalf of himself and his friends, § 87(2)(b) and two unidentified individuals known to the investigation only as § 87(2)(b) and § 87(2)(b).

On August 13, 2019, at approximately 9:30 p.m., § 87(2)(b) and his friends sat at a bench behind the § 87(2)(b) NYCHA complex, located at § 87(2)(b) in Brooklyn. Police Officers William Schumacher and Anthony Waite—both from the 75th Precinct—approached and questioned the individuals (**Allegations A-E – Abuse of Authority: Question;** § 87(2)(g) PO Waite allegedly stopped and frisked § 87(2)(b) (**Allegations F-G – Abuse of Authority: Stop and Frisk;** § 87(2)(g)). The officers failed to provide the civilians with their business cards (**Allegations H-O – Abuse of Authority: Failure to Provide RTKA Card;** § 87(2)(g)). PO Schumacher interfered with § 87(2)(b)'s use of a recording device (**Allegation P – Abuse of Authority: Interference with Recording Device;** § 87(2)(g)). PO Schumacher told the group of male civilians, “Alright ladies, have fun” (**Allegations Q-T – Offensive Language: Gender;** § 87(2)(g)). The investigation determined that PO Schumacher provided a false official statement to the CCRB (**Allegation U – False Official Statement:** § 87(2)(g)), § 87(2)(g), § 87(4-b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

The investigation obtained two cellphone videos, which are saved to IAs 3 and 4 (**BRs 1-2**). Several requests for the officers’ BWC footage yielded negative results (see Allegations V-W) (**BRs 3-8**).

Findings and Recommendations

Allegation A - Police Officer William Schumacher questioned § 87(2)(b)

Allegation B - Police Officer William Schumacher questioned § 87(2)(b)

Allegation C - Police Officer William Schumacher questioned § 87(2)(b)

Allegation D - Police Officer William Schumacher questioned individuals.

Allegation E - Police Officer Anthony Waite questioned § 87(2)(b)

Allegation F – Police Officer Anthony Waite stopped § 87(2)(b)

Allegation G – Police Officer Anthony Waite frisked § 87(2)(b)

Allegation H - Police Officer William Schumacher failed to provide § 87(2)(b) **with a business card.**

Allegation I - Police Officer William Schumacher failed to provide § 87(2)(b) **with a business card.**

Allegation J - Police Officer William Schumacher failed to provide § 87(2)(b) **with a business card.**

Allegation K - Police Officer William Schumacher failed to provide individuals with a business card.

Allegation L - Police Officer Anthony Waite failed to provide § 87(2)(b) **with a business card.**

Allegation M - Police Officer Anthony Waite failed to provide § 87(2)(b) **with a business card.**

Allegation N - Police Officer Anthony Waite failed to provide § 87(2)(b) **with a business card.**

Allegation O - Police Officer Anthony Waite failed to provide individuals with a business card.

It is undisputed that PO Schumacher and PO Waite approached § 87(2)(b) and his friends at a picnic table in the courtyard of the § 87(2)(b) NYCHA complex. The officers asked the civilians for their names and if they lived there, and PO Schumacher said he saw them smoke marijuana. The officers did not give the civilians their business cards.

§ 87(2)(b) recorded the incident on his cellphone (**BR 1**). At the 00:05 timestamp of the media player

(visible at the bottom of the screen), PO Schumacher and PO Waite approach the group individually from opposite sides of the courtyard. PO Schumacher asks them, “Anyone live here?” and § 87(2)(b) replies that he lives in § 87(2)(b) which is part of the NYCHA complex. PO Waite asks § 87(2)(b) for his name and if he lives there, and § 87(2)(b) replies that his grandmother lives there. At 00:45, PO Schumacher says he saw the individuals smoking, which they deny. A civilian says, “Somebody left this,” and, “You can’t get anything on us,” but the footage does not depict what he is referring to. At 01:15, the civilians ask PO Waite, “Why are you touching him?” but the footage does not capture what physical contact, if any, PO Waite makes with civilians. After about one minute, the officers walk away and speak with another officer at the edge of the courtyard. That other officer never approaches the scene or speaks with the civilians.

§ 87(2)(b) testified that he and his four friends were chatting at the bench and had not smoked marijuana or done anything else before the officers approached (**BR 9**). PO Waite asked § 87(2)(b) for his name, and § 87(2)(b) provided it. PO Waite then reached over and rubbed the outside of § 87(2)(b) right pants pocket, which was empty. PO Waite did not explain why he grabbed § 87(2)(b) pocket.

The investigation was unable to obtain statements from the other civilians. § 87(2)(b) missed two interviews and subsequently became uncooperative with the investigation (see IAs for contact attempts). § 87(2)(b) was unavailable to the investigation (see IAs for contact attempts). The investigation was unable to contact § 87(2)(b) or § 87(2)(b) as § 87(2)(b) did not have their contact information and database searches could not be completed with only first names.

Even after reviewing the civilian cellphone footage, PO Waite had no recollection of this incident or the civilians involved (**BR 10**). He did not know why he and PO Schumacher approached the individuals, but based on the conversation in the video, he said it may have been because they smoked marijuana. The footage did not refresh PO Waite’s memory as to whether he made physical contact with any of the individuals. He did not recall frisking or searching anyone. He did not believe he was required to provide the civilians with his business card, as they were not forcibly stopped.

PO Schumacher remembered this incident after reviewing the civilian cellphone footage (**BR 11**). He specifically recalled driving north up Bradford Street toward Glenmore Avenue with PO Waite and Sergeant Robert Martinez (also from the 75th Precinct), when he observed a group of approximately seven to ten individuals to their right in the courtyard about 30 feet away smoking marijuana. PO Schumacher smelled marijuana and observed a male who was seated at the bench smoking. PO Schumacher did not see anyone else smoking in the area or any other possible source of the marijuana odor. He saw the group in the courtyard through a gate running along Bradford Street. He did not recall if his car was stopped or moving when he observed them. He did not recall who was driving or how long he observed the individuals for. PO Schumacher did not recall if his partners indicated that they had also observed individuals smoking. PO Schumacher did not know what Sgt. Martinez’s role was, though he believed Sgt. Martinez neither approached nor interacted with the civilians.

According to NYPD documentation, Sgt. Martinez retired on December 1, 2019 (**BR 12**). The investigation was therefore unable to interview him or obtain his Memo Book. Furthermore, as the investigation only learned of Sgt. Martinez’s identity after interviewing PO Waite and PO Schumacher, it was unable to request his BWC footage, as the 18-month retention period for the footage had already expired.

PO Schumacher said that when he approached the group, no one was smoking, but he smelled marijuana and saw a burnt marijuana cigarette on the picnic bench. Throughout the entire incident, all the individuals were free to leave and they did not have to answer the officers’ questions. PO Schumacher said something about the marijuana on the bench, but he did not believe that comment

raised the encounter to a “forceful stop.” As such, he believed he was not required to provide the individuals with his business card. PO Schumacher used his discretion to leave without issuing a summons for the marijuana because it was not on anyone’s person.

Google Maps Street View images show that there is no fence through which PO Schumacher could have seen the individuals smoke marijuana on Bradford Street (**BRs 13-14**). On Miller Avenue, there is a partial view of the courtyard, but that vantage is not through a fence and the courtyard is barely visible (**BR 15-16**).

The civilian cellphone footage reveals that the officers recorded this incident on their BWCs, but four separate requests for the officers’ BWC footage yielded negative results and the officers were unable to account for why that might be the case (see Allegations W-V).

§ 87(2)(g), § 87(4-b)

Under the New York Court of Appeals’ decision in People v. De Bour (40 N.Y.2d 210), officers may approach civilians and ask accusatory, “Level 2” questions if they have a founded suspicion that criminal activity is afoot—meaning there is some indication of criminality based on observable conduct or reliable hearsay information (**BR 21**). If the officers have “Level 3” reasonable suspicion of criminality—i.e. a particularized and objective basis for believing a crime has been committed, is being committed, or is about to be committed—they may forcibly stop the civilians and ask accusatory questions to determine whether probable cause exists. NYPD Patrol Guide, Procedure 203.09 requires that officers provide their business cards during Level 2 and Level 3 encounters that do not result in arrests or summonses (**BR 22**).

PO Schumacher’s statement that he saw the civilians smoke marijuana was accusatory and would reasonably lead the civilians to believe that the officers suspected them of committing a crime or violation. That comment—paired with the officers’ questions regarding the civilians’ names and addresses—raised the encounter to at least a Level 2. The investigation was unable to determine, however, whether the officers had founded suspicion to question the civilians, as the video evidence and civilian and officer testimonies were inconclusive as to whether the civilians possessed marijuana. PO Schumacher stated that he approached the individuals because he saw them smoking marijuana through a fence, but according to Google Maps Street View, there is no fence along the perimeter of the courtyard through which he could have seen them. PO Schumacher also said he smelled marijuana and viewed a burnt marijuana cigarette on the picnic bench, but the civilian cellphone footage does not depict the entire bench and the civilians say that the object in question on the table is “nothing” and that the officers “can’t get anything on [them].” PO Waite did not recall this incident and was unable to corroborate PO Schumacher’s testimony regarding the marijuana. § 87(2)(g)

The investigation was further unable to determine whether PO Waite patted down § 87(2)(b) pants pocket, thereby forcibly stopping and frisking him. Though the civilians in the video ask PO Waite why he is touching someone, the footage does not depict PO Waite at that point, nor does it depict him make physical contact with civilians at any other point, and the officers did not recall whether PO Waite frisked anyone. § 87(2)(g)

As mentioned above, PO Schumacher's accusatory statements regarding the marijuana and the officers' resulting questions made this at least a Level 2 encounter. The officers did not provide the civilians with their business cards, as they believed they were not required to because the encounter was not a Level 3 forcible stop. The Patrol Guide states, however, that officers must provide their business cards during Level 2 encounters and above that do not result in an arrest or summons. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation P - Police Officer William Schumacher interfered with § 87(2)(b)'s use of a recording device.

At the 00:40 mark of § 87(2)(b)'s cellphone footage (**BR 1**), PO Schumacher takes out his flashlight and tells § 87(2)(b) that he is also recording. The flashlight creates some glare in the camera lens, but the footage remains mostly unobscured. At 01:15, PO Schumacher orders § 87(2)(b) to step down from either the picnic bench or scaffolding, and § 87(2)(b) complies. PO Schumacher's flashlight then shines into § 87(2)(b)'s camera for approximately 10 seconds, almost entirely obscuring the view of the camera. During that time, PO Schumacher tells § 87(2)(b) "I'm telling you, if you put that in my face, it's going to be a problem." Based on the footage, the area was not particularly dark at the time, as several lights from the buildings and courtyard illuminated the benches.

During his CCRB interview, § 87(2)(b) alleged that PO Schumacher intentionally shined his flashlight into § 87(2)(b)'s camera (**BR 9**). As previously mentioned, the investigation was unable to obtain a statement from § 87(2)(b) who recorded the incident.

PO Schumacher did not recall removing his flashlight or shining it at the camera (**BR 11**). He may have removed his flashlight because the incident took place at night and NYCHA courtyards are frequently poorly lit. After reviewing the civilian cellphone footage, PO Schumacher denied intentionally shining his flashlight into the camera, stating, "Flashlights project light in all directions. If I did, it wasn't my intention to point it directly at him." PO Schumacher told § 87(2)(b) "If you put that in my face, it's going to be a problem," because civilians frequently place their phones in PO Schumacher's personal space. He believed § 87(2)(b)'s camera likely came "pretty close" to his face if he felt the need to say something about it. The civilians in this situation were entitled to record. PO Schumacher had no reason to believe the civilians were armed or dangerous.

PO Waite did not recall if PO Schumacher pointed his flashlight at § 87(2)(b)'s camera (**BR 10**).

NYPD Patrol Guide, Procedure 203-29 prohibits officers from "threaten[ing] intimidat[ing], or otherwise discourag[ing] an observer from recording the police officer's activities; or ... intentionally block[ing] or obstruct[ing] cameras or other recording devices when there is no legitimate law enforcement reason to do so" (**BR 23**).

§ 87(2)(g)

§ 87(2)(b) PO Schumacher stated that if his flashlight did obscure § 87(2)(b)'s camera, it was unintentional and happened only because "flashlights project light in all directions." Various points in the cellphone footage show the difference, however, between when the flashlight is generally projecting light in all directions and when it is localized specifically in the camera's lens. For example, between the 00:56 and 01:15 timestamps of the media player (visible at the bottom of the screen), PO Schumacher's flashlight points in the general direction of the camera. There are moments the light creates glare in the lens, but for the most part, the footage remains unobscured. Compare that with the footage between the 01:24 and 01:34 timestamps, during which the footage is almost entirely obscured by glare. The glare, which is continuous for a

period of about 10 seconds, corresponds with PO Schumacher ordering § 87(2)(b) to get down from somewhere and telling him that “there will be a problem” if he puts the camera in his face. This comment suggests PO Schumacher was aware § 87(2)(b) was recording and that he was perturbed by the camera at the exact moment when the footage was obscured. PO Schumacher said he had no reason to believe the civilians were armed or dangerous. Additionally, his partner did not feel the need to use his flashlight, and the courtyard was illuminated by several lights and not particularly dark. Those factors further indicate that between the 01:24 and 01:34 timestamps, PO Schumacher was using his flashlight § 87(2)(g)

§ 87(2)(g)
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§ 87(2)(g)

Allegation Q - Police Officer William Schumacher made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)

Allegation R - Police Officer William Schumacher made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)

Allegation S - Police Officer William Schumacher made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)

Allegation T - Police Officer William Schumacher made remarks to individuals based upon the gender of individuals.

At the 01:45 timestamp of the civilian cellphone footage (visible at the bottom of the screen), the officers walk away from the civilians (**BR 1**). PO Waite says, “Alright men,” and PO Schumacher says, “Alright ladies, have fun.” The footage does not depict any female civilians, nor does it capture female-sounding voices. Earlier in the video at 00:06, when the officers first approach, PO Schumacher says, “What’s going on, gents?”

§ 87(2)(b) recorded a second interaction with different officers only moments after this incident (**BR 2**). That second video captures the entire area around the picnic tables. The same male civilians depicted in the first video are still present, and no females are present in the area.

§ 87(2)(b) alleged that PO Schumacher called him and his male friends “ladies” (**BR 9**).

PO Schumacher testified that there were about three female civilians present who may or may not have been depicted in the civilian cellphone footage (**BR 11**). He did not know where the women would have been positioned relative to the camera at the 01:55 mark of the civilian cellphone footage, but he believed there were people present who were not depicted in the video. PO Schumacher’s comment, “Alright ladies, have fun,” was directed at those female civilians and not at the men. He “absolutely [did] not” call the male civilians “ladies.” He told the women to “have fun” because he is a “military man ... and it is courteous to ... greet the females first.” He also believed the comment was directed toward the women rather than the men because the men had been “giving [him] a hard time” by talking back. PO Schumacher did not recall the women saying anything during the incident or either himself or his partner interacting with them in any way.

PO Waite did not recall whether PO Schumacher called the male civilians “ladies” (**BR 10**).

NYPD Patrol Guide, Procedure 203-10 prohibits officers from “using discourteous or disrespectful remarks regarding another person’s ... gender [or] gender identity/expression” (**BR 24**).

§ 87(2)(g)

First, the cellphone footage captures no female civilians or voices. Though it is possible

some civilians were present and not depicted in the video, the officers did not interact with any such people, and the audio does not capture any additional voices. The second cellphone video, taken shortly after the first, captures the entire area around the picnic tables and shows only the male civilians depicted in the first video, further indicating that there were no women present during this incident. Perhaps more revealing is the fact that PO Schumacher and PO Waite themselves referred to the civilians as “men” and “gents” before PO Schumacher said “ladies.” If, as PO Schumacher testified, the comment was directed toward the female civilians because he believed it was “courteous to ... greet the females first,” it makes little sense why he first greeted the group as “gents.” Additionally, the exact words PO Schumacher used—“Alright ladies, have fun”—are, in the context of the interaction, best interpreted as a tongue-in-cheek insult rather than a sincere greeting. Indeed, PO Schumacher believed he would not have greeted the men on his way out because they had been “giving [him] a hard time” by talking back, but that only adds further proof that he intended to insult them. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation U – Police Officer William Schumacher provided a false official statement to the CCRB.

As detailed above, PO Schumacher testified that the comment, “Alright ladies, have fun,” was directed toward women and “absolutely not” toward men (BR 11).

During official investigations, including CCRB interviews, officers are prohibited from intentionally making false statements regarding material facts. NYPD Patrol Guide, Procedure 203.08 (BR 25). Material facts are those that a “reasonable person would recognize as relevant to, or affecting, the subject matter at hand ... [They] are essential to the determination of the issue and the suppression, omission, or alteration of such fact[s] would reasonably result in a different decision or outcome.”

§ 87(2)(g)

§ 87(2)(g)

For one, as detailed above, all the available evidence indicates that there were no women present. Regardless, even if women were present, it is clear that the comment was directed at the men whom PO Schumacher believed had been “giving [him] a hard time.” As previously explained, his rationale for making the comment—that he believed it was courteous to greet the females first—makes little sense, as he first greeted the group as “gents.” On a more basic level, in context, the comment reads as an insult rather than a sincere greeting. Indeed, PO Schumacher evidently believed his interaction with the men was contentious, and it strains credulity that he would tell the women to “have fun” after not having said a word to them previously.

Whether the comment was directed at women rather than men is a material fact that a reasonable person would recognize as directly related to the outcome of the above-detailed allegations. To be sure, if the comment were not directed at the men, there would be no offensive-language allegations in this case. As PO Schumacher repeatedly and unequivocally stated that he used the word “ladies” to refer to women, § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

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§ 87(2)(g), § 87(4-b)

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Civilian and Officer CCRB Histories

- § 87(2)(b) [Redacted text block]
- [Redacted text block]
- [Redacted text block]

- § 87(2)(b) [REDACTED]
- § 87(2)(b) [REDACTED]
- § 87(2)(b) [REDACTED]
- PO Schumacher has been a member-of-service for 10 years and has been a subject in 16 other cases comprised of 46 allegations, of which three were substantiated (**BR 31**):
 - Case #201204235 involved substantiated allegations of physical force and unlawful entry and search against PO Schumacher. The Board recommended Charges and the NYPD imposed a penalty of 10 vacation days.
 - Case #201506191 involved substantiated allegations of discourteous language against PO Schumacher. The Board recommended Command Level Instructions and the NYPD imposed no discipline.
 - § 87(2)(g) [REDACTED]
- PO Waite has been a member-of-service for five years and has been a subject in 15 other cases comprised of 62 allegations, of which none have been substantiated (**BR 32**). § 87(2)(g) [REDACTED]

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- As of November 30, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed regarding this incident (**BR 33**).
- § 87(2)(b) [REDACTED]
- § 87(2)(b) [REDACTED]

Squad No.: 13

Investigator: William L. Moss
Signature

Inv. Will Moss
Print Title & Name

05/14/2021
Date

Squad Leader: Laura Kastner
Signature

IM Laura Kastner
Print Title & Name

05/14/2021
Date